

## REMARKS

Claims 1-6, 11 and 13-18 are pending in the instant application. Applicants have currently amended Claims 1-3 and 5-6. Applicants have canceled Claims 7-10, 12 and 19-20. WHEREIN, Claims 1-6, 11 and 13-18 remain to be examined. No new matter has been added. No additional claims fee is believed to be due. Applicants reserve the right to prosecute the originally filed claims in the future.

### Initial Comments

Applicants have amended the claims in accordance with the election of Group IV and have limited Q to pyrimidinyl pyrazole.

The Examiner states that Claim 8 and Claims 1-7 and 15-18 reading on Claim 8 are under prosecution. However, Applicant would like to point out that Group IV was elected (See Response to Restriction Requirement mailed on August 12, 2008). Therefore, Claims 11 and 13-14 and Claims 1-7 and 15-18 reading on Claims 11 and 13-14 should be under prosecution. Applicant has amended the claims based on this election.

### 103(a)

Examiner has rejected Claims 1-8 and 15-18 (this should be Claims 1-7, 11, 13-14 and 15-18, please see above) under 35 USC 103(a) as being unpatentable over Duggan et al. (US 7,414,055), in view of Bilodeau et al. (US 7,304,063) and supplemented with Zhao et al.

Applicants note that the Duggan reference was first published on November 11, 2004 (WO2004/096135).

Applicants note that the Bilodeau reference was first published on November 11, 2004 (WO2004/096129).

Applicants instant application was internationally filed on April 20, 2004 and therefore both the Duggan and Bilodeau references are not prior art under 103(a).

### Nonstatutory Obviousness-type Double Patenting

Examiner has rejected Claims 1-8 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-9 of US Patent No. 7,399,764 in view of Claim 1-2 of US Patent No. 7,223,738. The Examiner states that although the conflicting claims are not identical, they are not patentably distinct from each other for the same rational of finding the described compounds *prima facie* obvious.

Applicants provide a terminal disclaimer in compliance with 37 CFR 1.321(c).

Applicants believe no additional fees are due but the Commissioner is authorized to charge any fees required in connection with this amendment to Merck Deposit Account No. 13-2755. If a telephonic communication with Applicant's representative will aid in the advancement of the prosecution of this application, please telephone the representative indicated below.

Serial No. 10/554,001

Case No. 21299YP

Page 12

Respectfully submitted,

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